UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,288	12/29/2000	John R. Stefanik	BS00059	8905

38516   7590   08/22/2008
SCOTT P. ZIMMERMAN, PLLC
PO BOX 3822
CARY, NC 27519

EXAMINER
SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
2623	

MAIL DATE	DELIVERY MODE
08/22/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 May 2008*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *9-15 and 20-28* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9-15 and 20-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/29/08 has been entered.

Response to Arguments

2.   Applicant's arguments filed 12/21/07 have been fully considered but they are not persuasive.

With respect to claims 20-25, rejected under 35 U.S.C. 102(e) as being anticipated by **Allport (6,104,334)** and the rejection of claims 9-15 and 26-28, rejected under 35 U.S.C. 103(a) as being unpatentable over **Allport (6,104,334)** and in view of **Feinleib et al (6,346,891),** Applicant amends claims discusses the claimed invention and the prior arts of record and further argues that the prior arts of record do not teach the claim limitations (see page 6+ of Applicant's Remarks).

In response, Examiner notes Applicant's arguments, however, the Examiner disagrees. **Allport** discloses in figures 1-18 a portable internet-enable controller and information browser for consumer devices, a remote control device (RC-10). Allport teaches that RC-10 receives TV schedules (EPG) and loads or updates new titled-

based descriptions (e.g.., TV schedules, etc.) Furthermore the display of figs.5 and 6,

shows a TV schedule including the sources of the TV programs. Allport further teaches

that RC-10 alerts the user or the consumer updates of event, using different visual

appearance on the display to inform the user of occurrence of scheduled events (figs.5,

6, col.10, lines 31-38, col.13, line 19-col.14, line 25, col.18, lines 35-38, col.21, lines 3-

17, line 61-col.22, line 9 and col.25, lines 7-24). The EPG applications send messages

to update schedule events and other TV listing (figs.5-7 and 17). Hence Applicant's

arguments are not persuasive the 102(e) rejection of claim 20-25 is proper, meets all

the claim limitations as discussed below.

With respect to the 103(a) rejection of amended claims 26 and 28, Examiner

disagrees with Applicant that the prior arts of record do not teach the amended claim

limitations. Allport teaches an RC which receivers a message indicating an occurrence

of a scheduled event that was track using the EPG application as discussed above.

Allport for uses the RC to control two or more devices in the wireless local area network

(LAN) and by directing the RC to a specific device within the LAN, the processor

changes a mode of operation of the RC to control the specific device (col.25, line 25+

and col.28, line 23-col.29, line 1+). Allport teaches all the claim limitations, but silent as

to motion detector to detect motions (various motions including tilting) and respond to

the detected motion. However, in the same field of endeavor **Feinleib** discloses an RC

system, with a tilting switch and comprises a motion sensor to detect motions (including

tilting) and initiate a startup phase of the RC before a user actually presses a key

(abstract, figs. 1-3, col.1, line 64-col.2, line 28, line 40-col.3, line 38 and line 66-col.4,

line 1+). Hence the amended claims do not overcome the prior arts of record. The

amendment to the claims necessitated the new ground(s) of rejection discussed below.

This office action is non-final.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this Office

action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 20-25 are rejected under 35 U.S.C. 102(e) as being anticipated by

Allport (6,104,334).

As to claim 23-24, **Allport** discloses in figures 1-18 a portable internet-enable

controller and information browser for consumer devices and further discloses a remote

control device (10), comprising:

A processor (fig.18, CPU-605 and col.26, line 61-col.27, line 17);

A remote control (RC) receiver (IR receiver(s)) in communication with the RC

receiver is for receiving a message from a consumer electronics device, the message

indicating a scheduled event has occurred that was track using an electronic program

guide (col.10, lines 27-38, col.13, line 19-col.14, line 25 and col.18, lines 23-38, col.21,

lines 3-17, line 61-col.22, line 9, col.25, lines 7-24 and col.28, line 23-col.29, line 1+);

note that the EPG application, send messages to update schedule events and other TV

listing (figs.5-7 and 17).

An input device (transmitter/receivers interconnected to 630 that enables various

inputs, 635, 640, 645, 650, 655, 660, etc.,) in communication with the processor (fig.18,

col.26, line 61-col.27, line 17);

A data storage area (DRAM 615, SRAM 620, etc.,) in communication with the

processor; and

An output device (transmitter/receivers interconnected to 630 that enables

various outputs, LCD Display 665, Speaker, etc.,) in communication with the processor,

where after the processor receives data from the remote control receiver, the processor

retrieves instructions from the data storage area, interprets the data based upon the

retrieved instructions and controls the output device to produce a customized alert

associated with the scheduled event, where the instructions enable the processor, in

conjunction with the output device, to generate one of a plurality of different alerts

(col.10, lines 27-38, col.13, line 19-col.14, line 25 and col.18, lines 23-38), note the

various visual alerts for updates of schedule events.

As to claim 20, Allport further discloses where the customized alert includes a

plurality of noises, where the plurality of noises, vary in pitch (col.13, line 19-col.14, line

25 and col.27, line 62-col.28, line 22).

As to claims 21-22, Allport further discloses where the RC include TV programs

starting times (col.13, line 47-col.14, line 25 and col.18, lines 23-38) and includes a

smart card reader/writer in communication the processor, which concerns a user

profiles, favorite channel, user internet profile, etc., (col.8, lines 30-57, col.9, line 6-20,

col.21, lines 18-58 and col.28, line 51-col.29, line 1+).

As to claim 25, Allport further discloses where the processor detects activation of

the input device and, responsive thereto, the processor turns off the customized alerts

(col.13, line 19-col.14, line 25, col.15, lines 5-41 and col.18, lines 23-38).

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 9-15 and 26-28, are rejected under 35 U.S.C. 103(a) as being

unpatentable over **Allport (6,104,334)** and in view of **Feinleib et al (6,346,891)**.

As to claims 26-27, **Allport** discloses in figures 1-18 a portable internet-enable

controller and information browser for consumer devices and further discloses a system,

comprising:

A remote control device (10), communicating with an electronic device, the

electronic device (wireless IR transceiver communications via IrDA port 645 PCs, TV

Set(s), home Gateway or home Device(s)) comprising:

A receiver for receiving signals from the remote control device, an electronic

program guide, and a transmitter transmitting a message to the remote control device,

the message indicating an occurrence of a scheduled event that was tracked using the electronic program guide (col.2, line 59-col.3, line 21, col.4, lines 28-52, col.5, line 50-col.6, line 24 and col.28, line 23-col.29, line 1+); and the remote control device (10) comprising:

A processor (fig.18, CPU-605 and col.26, line 61-col.27, line 17);

A remote control (RC) receiver (IR receiver(s)) in communication with the processor, the remote control receiver receiving the message from the electronic device that indicates the scheduled event has occurred according to the electronic program guide (col.10, lines 27-38, col.13, line 19-col.14, line 25, col.18, lines 23-38, col.21, lines 3-41 and col.28, line 23+);

An input device (transmitter/receivers interconnected to 630 that enables various inputs, 635, 640, 645, 650, 655, 660, etc.,) in communication with the processor (fig.18, col.26, line 61-col.27, line 17);

A light source in communication with the processor (col.3, lines 5-20 and col.27, lines 33-61)

A data storage area (DRAM 615, SRAM 620, etc.,) in communication with the processor; and

An output device (transmitter/receivers interconnected to 630 that enables various outputs, LCD Display 665, Speaker, etc.,) in communication with the processor, where after the processor receives data from the remote control receiver, the processor retrieves instructions from the data storage area, interprets the data based upon the retrieved instructions and controls the output device to produce a customized alert

associated with the scheduled event, where the instructions enable the processor, in conjunction with the output device, to generate one of a plurality of different alerts, a processor for changing a mode of operation of the remote control to control a different electronic device upon detecting change in direction (tilt) of the RC, such that different orientations of the remote control device control different devices (col.10, lines 27-38, col.13, line 19-col.14, line 25, col.18, lines 23-38. col.21, lines 3-41 and col.28, line 23+), note the various visual alerts for updates of schedule events.

Allport teaches illuminating portions of the LCD display of the RC, but silent to a motion detector to detect motions (including various tilting motions) and respond to the detected motion.

However, **Feinleib** discloses an RC system, with a tilting switch, which includes a motion sensor to detect motions and initiate a startup phase of the RC before a user actually presses a key (abstract, figs. 1-3, col.1, line 64-col.2, line 28, line 40-col.3, line 38 and line 66-col.4, line 1+).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Feinleib into the system of Allport to enable the detection of motions and prepare the RC in advance for other operations before the user presses a key to activate other function of the RC.

Claim 9 is met as previously discussed with respect to claim 21.

Claim 11 is met as previously discussed with respect to claim 26.

Claims 12-15 are met as previously discussed with respect to claims 21-22.

As to claim 28, **Allport** discloses in figures 1-18 a portable internet-enable

controller and information browser for consumer devices and further discloses a system,

comprising:

A remote control device (10), including:

A processor (fig.18, CPU-605 and col.26, line 61-col.27, line 17);

A remote control (RC) receiver (IR receiver(s)) in communication with the RC

receiver is for receiving data from an electronic program guide, where the data indicates

the occurrence of scheduled event (col.10, lines 27-38, col.13, line 19-col.14, line 25

and col.18, lines 23-38);

An input device (transmitter/receivers interconnected to 630 that enables various

inputs, 635, 640, 645, 650, 655, 660, etc.,) in communication with the processor (fig.18,

col.26, line 61-col.27, line 17);

A light source in communication with the processor (col.3, lines 5-20 and col.27,

lines 33-61)

A data storage area (DRAM 615, SRAM 620, etc.,) in communication with the

processor; and

An output device (transmitter/receivers interconnected to 630 that enables

various outputs, LCD Display 665, Speaker, etc.,) in communication with the processor,

where after the processor receives data from the remote control receiver, the processor

retrieves instructions from the data storage area, interprets the data based upon the

retrieved instructions and controls the output device to produce a customized alert

associated with the scheduled event, where the instructions enable the processor, in

conjunction with the output device, to generate one of a plurality of different alerts,

(col.10, lines 27-38, col.13, line 19-col.14, line 25 and col.18, lines 23-38) and where the

processor detects activation of the input device and, responsive thereto, the processor

turns off the customized alerts, a processor for changing a mode of operation of the

remote control to control a different electronic device upon detecting change in direction

(tilt) of the RC, such that different orientations of the remote control device control

different devices (col.10, lines 27-38, col.13, line 19-col.14, line 25, col.18, lines 23-38.

col.21, lines 3-41 and col.28, line 23+).

Allport teaches illuminating portions of the LCD display of the RC, but silent to a

motion detector to detect motions (including other tilting motion(s)) and respond to the

detected motion.

However, **Feinleib** discloses an RC system, with a tilting switch, which includes a

motion sensor to detect motions and initiate a startup phase of the RC before a user

actually presses a key (abstract, figs. 1-3, col.1, line 64-col.2, line 28, line 40-col.3, line

38 and line 66-col.4, line 1+).

Therefore it would have been obvious to one of ordinary skill in the art at the time

of the invention to incorporate the teaching of Feinleib into the system of Allport to

enable the detection of motions and prepare the RC in advance for other operations

before the user presses a key to activate other function of the RC.

Conclusion

7.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Koot et al (6,049,293) disclose remote control system.

Aubuchon et al (5,973,757) disclose contoured and balance remote TV control

device.

Ogawa (5,561,543) discloses information input system by altitude detection of

manual implement.

Heberie (5,302,968) discloses wireless RC and zoom system for video display

apparatus.

8.   Any inquiry concerning this communication or earlier communications from

the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-**

272-7355. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone

number for the organization where this application or proceeding is assigned is **571-**

273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, **call 800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

/Annan Q Shang/
Primary Examiner, Art Unit 2623

Annan Q. Shang